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FCC Mail Room

October 11, 2010

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554

RE: MB Docket No. 10-190.

Dear Ms Dortch:

This provides my comment on the Petition for Declaratory Judgment filed by the Campaign for a Commercial Free Childhood for your consideration.

I am a mother, an attorney, and a former advertising executive. I worked in the advertising industry for about nine years before I retired to raise a family. My clients included Carl's Jr. Restaurants, the LA Dodgers, Unocal, and Acura Automobiles among others. As a strategist and a manager, I have effectively leveraged communication for the benefit of my clients. This work I enjoyed. Over time, however, it became all too clear to me that the advertising and marketing industry is not one rooted in a sense of fair play or honor but in profit. The ad industry uses information, a key element to a free market economy, to its exclusive advantage. This information includes the emotional and psychological makeup of a target audience, not simply economic, demographic, and factual information. Feeling that I was compromising my integrity was also a part of the reason I retired from the industry.

During my years in advertising, which were quite exhilarating, I learned that ad campaigns are built primarily around creating and filling psychological needs in the target audience. For instance, in the automotive business, our strategies were based on people's aspirations for more. "I want to look more [prestigious, smarter, cooler, etc.] than I feel inside." Our campaigns were intended to make people feel better about who they were when they bought the right automobile.

Internally, though I didn't much like the thought of making people feel less than they were, then "helping" them to feel better by buying a certain automobile, I was able to justify internally it because we were speaking to adults with some education.

Over the years, I had some exposure to children's advertising. On Carl's Jr., I participated in Kids' Meal toy and marketing planning, including cross-marketing campaigns with cartoons and

movies. I also knew several acquaintances that worked on Mattel Toys and other children's products. I'd sworn to myself early on, as some of my colleagues had, that I would not work on children's products, tobacco, or alcohol directly—working on kids' meals was as far as I would go. It was common knowledge in the industry that kids' marketers leveraged psychographic, medical, and scientific information about children's brain function and development. Many of us sensed that it was neither ethical nor moral to use the inherent differences in children's brains to reach into their parents' pockets.

Some of the data that was put to use is the "cut rate" in commercial television ad as well as the decibel, pitch and tone needed to secure a child's attention for a :30 spot. Children's marketers have even used EEG's to measure kids' brain activity while watching television to pin down these data points and create spots that capture their attention and keep them glued to the set.

One of my mentors explained it to me. Kids' marketers study children so they can figure out how to induce the "Whine Factor." The "Whine Factor" is intended to disrupt the parent-child relationship to such a degree that parents will do almost anything to get the relationship back to equilibrium—including buy the thing the child's whining for.

I've heard people say that it's parents' responsibility to train their children; to say no; to set limits; to turn off the television, computer, radio. However, that's much easier said than done in today's society. Even in a home like mine, where media is limited, children are inundated with commercial messages everywhere they go. School, friends' homes, stores, the bathroom, the pantry. From the moment they wake to the time they go to sleep, children are sought after by some of the deepest pockets in the world trying to get them to reach into their parents' pockets. It's astonishing the amount of money marketers spend to put stress upon a bond so deep, so sacred that a parent will sometimes, oftentimes, cave in to the pressure rather than risk its loss.

Marketers have so changed the landscape of childhood that parents have a tremendously difficult time re-regulating what is normal in the home. To teach children to be frugal spenders, wise-consumers and good stewards of what they have runs counter to the messages they get each and every day from all sides. Now, it is normal for children to have thousands of trading cards, thousands of songs on their iPods, thousands of Legos, thousands of toys. And children who don't have all that are left behind in childhood social structures, ostracized, feeling unloved and unlovable because they don't have the "stuff" that other kids have.

In my home, I've educated my children about commercialism and taught them to be critical thinkers. This does not stop the interference of mass media in my home or in anyone's home. So much more entrenched marketers are, then, in homes where parents do not or cannot teach their children to be critical.

And that is the thrust of CCFC's Petition. CCFC is asking the FCC to step in and tell children's marketers that there is a limit. Not many. But there is one, and Skechers has reached it with *Zevo-3*.

As an attorney, I hold the First Amendment of the Constitution to be most dear. I understand that a market economy is based in part on "caveat emptor" and free, unfettered access to

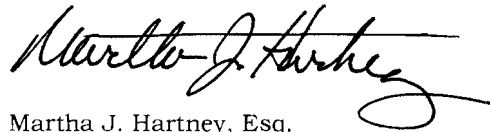
information, however skewed and self-serving. The CCFC's petition does not ask this Commission to cut into marketers' First Amendment rights. As we all know, commercial speech is not fully protected under the Constitution and may be restricted under certain circumstances. The rule in *Pacifica Foundation* made that perfectly clear. 438 U.S. 726 (1978). This Commission has a duty to enforce its own regulations and the regulations, as stated in the Petition, are quite clear.

Skechers is about to violate the FCC's own time- and content-related regulations in airing *Zevo-3* on Cartoon Network (or any network) and the FCC must grant the CCFC's petition.

I am a Skechers fan. I love their shoes and my kids have worn them for years. Nevertheless, I don't agree with their marketing strategy and I will stop buying Skechers if they continue on this path and I will make sure everyone I know hears about why I will no longer buy anything from Skechers.

As a parent and an attorney, I hope you will take the right stand, the only stand, on this that makes sense and declare that there are places where children will not be targeted for profit.

Very sincerely yours,



Martha J. Hartney, Esq.

cc: Kim Matthews  
Media Bureau, Room 4-A813  
445 12th Street, S.W.  
Washington, D.C. 20554  
[kim.matthews@fcc.gov](mailto:kim.matthews@fcc.gov)

Susan Linn, Ph.D.  
CCFC  
NonProfit Center  
89 South St., #404  
Boston, MA 02111

Skechers, Inc.  
228 Manhattan Beach Blvd.  
Manhattan Beach, CA 90266